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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,643	01/31/2000	Jean-Marc Halbout	SMS999-002	3730

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EXAMINER

WOO, RICHARD SUKYOON

ART UNIT PAPER NUMBER

3629

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/494,643

Applicant(s)

HALBOUT ET AL

Examiner

Richard Woo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 15-17, 19 and 21 is/are rejected.
- 7) ☒ Claim(s) 18 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

- 1) An applicant's amendment filed September 20, 2004 has been entered.
- 2) Applicant's arguments, filed September 20, 2004, with respect to the prior art rejections have been fully considered and are persuasive. The previous prior rejection has been withdrawn.

Claim Rejections - 35 USC § 102

- 3) Claims 1-3, 5-7, 15-17, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Al-Hilali et al. (US 6,086,618).

W.R.T. Claim 1:

Al-Hilali et al. discloses a method for valuation of sever-based computer services for each of a plurality of computer server systems comprising the steps of:

assigning a capacity value for each computer server system (see Tables 3-5 and the descriptions thereof; col. 8, lines 48-58);

assigning a usage category for each computer server system (see Id.);

mapping the capacity value and usage category into a matrix (see Supra Tables and col. 17, line 7 – col. 18, line 65); and

automatically assigning costs for the server-based computer services based on location within the matrix (using Supra Tables and equations to automatically assign costs).

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W.R.T. Claim 2: Al-Hilali et al. further discloses the method, wherein the assigning a capacity value including assigning a value based on the size of the server system (see Tables 3-5 and the descriptions thereof; col. 8, lines 48-58);

W.R.T. Claim 3: Al-Hilali et al. further discloses the method wherein the assigning of a capacity value includes assigning a value based on the number of CPUs in the server system (see col. 12, lines 11-26);

W.R.T. Claim 5: Al-Hilali et al. further discloses the method including the step of calculating a capacity value from at least one previously-assigned capacity value (see Supra Tables and Supra columns 17-18);

W.R.T. Claim 6: Al-Hilali et al. further discloses the method, wherein the assigning of a usage category is based on the server application to be executed at each of the plurality of servers (see Supra col. 8; and Supra Tables; logon/quit, receive message look up mailbox, deliver message, etc);

W.R.T. Claim 7: Al-Hilali et al. further discloses the method including the step of ascertaining at least one service support level (Inherently, Every ISP must ascertain at least one service support level to accommodate its customers);

W.R.T. Claim 17: Al-Hilali et al. further discloses the method including:

determining the required usage type and required capacity for satisfying the request; and

automatically determining charges for requested server-based computer services by aggregating the assigned costs for services from the matrix based on the required

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usage type and required capacity (see Supra Tables for the usage type and required capacity and programs in Supra cols. 17-18 to determine charges).

W.R.T. Claim 15:

Al-Hilali et al. discloses a system for providing valuation of server-based computer services, comprising:

assignment component for assigning a capacity value for each computer server system (see Tables 3-5 and the descriptions thereof; col. 8, lines 48-58);

a usage assignment component for assigning a usage environment for each computer server system (see Id.);

processor component for mapping the capacity value and usage environment (see Supra Tables and col. 17-18 for the programs to map the value and criteria); and

cost processing component for automatically assigning costs according to mapping (see Id.).

W.R.T. Claim 19: Al-Hilali et al. further discloses the system including a request handling component (inherently, every ISP service provides this component from the customers) and wherein the cost processing component automatically determines charges for requested server-based computer services by aggregating the assigned costs for services from the matrix based on the required usage type and required capacity (see Supra Tables for the usage type and required capacity and programs in Supra cols. 17-18 to determine charges).

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W.R.T. Claim 16:

Al-Hilali et al. discloses a program storage device readable performing the method of steps of:

assigning a capacity value for each computer server system (see Tables 3-5 and the descriptions thereof; col. 8, lines 48-58);

assigning a usage category for each computer server system (see Id.);

mapping the capacity value and usage category into a matrix (see Supra Tables and col. 17-18 for the programs to map the value and criteria); and

automatically assigning costs based on location within the matrix (using Supra Tables and equations to automatically assign costs).

W.R.T. Claim 21: Al-Hilali et al. further discloses the device including:

determining the required usage type and required capacity for satisfying the request; and

automatically determining charges for requested server-based computer services by aggregating the assigned costs for services from the matrix based on the required usage type and required capacity (see Supra Tables for the usage type and required capacity and programs in Supra cols. 17-18 to determine charges).

Claim Rejections - 35 USC § 103

4) Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Al-Hilali et al. in view of the Applicants' admitted prior art.

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Al-Hilali et al. discloses the invention as recited earlier, but does not expressly disclose the method including the step of:

assigning a capacity value including assigning a value based on published standards.

Applicants' admitted prior art (see generally pp. 7-9 in the specifications in this instant application) teaches, for a method for valuation of server-based computer services, that the published benchmark results are used to determine capacity units.

Accordingly, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to assign the capacity value including a value based on the published standards, as taught by the Applicants' admitted prior art, for the purpose of determining the relative server system performance across various make and model types and vendors.

5) Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Al-Hilali et al..

Al-Hilali et al. discloses the invention as cited earlier, but does not expressly disclose the limitations in Claims 8-9.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to assign the service support level into the one of valuation factor of server-based computer services because Applicant

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has not disclosed that this additional mapping of the service support level into the matrix provides an advantage, is used for a particular purpose, or solves a stated problem.

One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with Al-Hilali et al. because Al-Hilali et al. and many ISPs have had their pricing guides based on the various services provided to the customer and the service support level should be obviously considered one of the services which Al-Hilali et al. and many other ISPs would have provided.

Therefore, it would have been an obvious matter of design choice to modify Al-Hilali et al. to obtain the invention as specified in claims.

Allowable Subject Matter

6) Claims 18 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 5,668,995 is cited to show a computer-implemented capacity planning system for computer systems used in client/server environments. The system provides

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a correctly sized and configured computer system in response to user specified requirements.

US 5,790,170 is cited to show a table of charges for transmission in one embodiment of the system. The charges vary according to a different class of service.

US 5,761,091 is cited to show a method of and system for more accurately measuring the resource usage of UNIX process by sampling methods involving appropriated corrections for the resource usage of the terminated process and analyzing UNIX process data along with subsystem data.

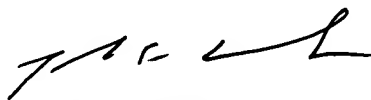
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Woo whose telephone number is 703-308-7830. The examiner can normally be reached on Monday-Friday from 8:30 AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Woo
Patent Examiner
Art Unit 3629
January 8, 2005



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